

REMARKS/ARGUMENTS

Claims 54 - 72 are presented for the Examiner's consideration. Pursuant to 37 C.F.R. § 1.111, reconsideration of the present application in view of the foregoing amendments and the following remarks is respectfully requested.

The Applicants have submitted a substitute specification as requested amending the Summary of the Invention to reflect the claimed subject matter of claims 54 - 72. The Applicants have amended the claims to overcome the previous indefinite rejections by introducing a pressure roll and the relative position of the fabrics into claim 54 and amending the dependant claims as necessary for consistency with amended claim 54. The Applicants have not positively recited a web in claim 54 since it is not required to positively claim the work piece worked on or manipulated by the apparatus in an apparatus claim. The web is positively recited in original claims 56, 64, 66, and 68. It is now believed that all of the presently pending claims are definite to one of ordinary skill in the art. The Applicants request the Examiner to remove the pending indefinite rejections noted in items 4, 6, 7, and 8 of the Office Action dated 07/26/2004.

The Applicants respectfully traverse the Examiner's pending objections that claims 69 - 72 are improperly dependent and/or vague or indefinite as discussed in items 2 and 5 of the Office Action dated 07/26/2004. Product by process claims, as discussed in MPEP §2173.05(p), are not improper in the context of a claim drawn to an apparatus. "A claim to a device, apparatus, manufacture, or composition of matter may contain a reference to the process in which it is intended to be used without being objectionable under 35 U.S.C. 112, second paragraph, so long as it is clear that the claim is directed to the product and not the process. An applicant may present claims of varying scope even if it is necessary to describe the claimed product in a product-by-process terms." Here it is clear that the objected claims are drawn to the product of claim 1. The claims recite a process by which the claimed apparatus of claim 1 can be constructed. The claims reflect a method of constructing the claimed apparatus by rebuilding an existing machine rather than constructing the apparatus by building a new machine. Because the potential infringer that rebuilds a machine may be different than the potential infringer that constructs a new machine, the claims are viewed as proper and necessary by the Applicants. The Applicants request that the Examiner remove the pending indefinite rejection on the above basis.

For the reasons stated above, it is respectfully submitted that all of the presently presented claims are in form for allowance. Please charge any prosecutorial fees which are due to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875. The undersigned may be reached at: (920) 721-7760.

Appl. No. 10/803,405
Amdt. dated October 25, 2004
Reply to Office Action of July 26, 2004

Respectfully submitted,

MICHAEL A. HERMANS ET AL.

By: Scott A. Baum
Scott A. Baum
Registration No.: 51,237
Attorney for Applicant(s)

CERTIFICATE OF MAILING

I, Lanette Burton, hereby certify that on October 25, 2004, this document is being deposited with the United States Postal Service as first-class mail, postage prepaid, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

By: Lanette Burton
Lanette Burton